

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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LENIN SANCHEZ,

Plaintiff,

-against-

CITY OF NEW YORK; Police Officer STEPHEN  
MACOMBER, Shield No. 20905; and JOHN and  
JANE DOE 1 through 10, individually and in their  
official capacities (the names John and Jane Doe  
being fictitious, as the true names are presently  
unknown),

Defendants.

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**COMPLAINT**

14 CV 7174

Jury Trial Demanded

**NATURE OF THE ACTION**

1. This is an action to recover money damages arising out of the violation of plaintiff's rights under the Constitution.

**JURISDICTION AND VENUE**

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth, Fifth, Sixth and Fourteenth Amendments to the Constitution of the United States.

3. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331, 1343 and 1367(a).

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c).

5. This Court has supplemental jurisdiction over the New York State claims pursuant to 28 U.S.C. § 1367.

### **JURY DEMAND**

6. Plaintiff demands a trial by jury in this action.

### **PARTIES**

7. Plaintiff Lenin Sanchez (“plaintiff” or “Mr. Sanchez”) is a resident of Kings County in the City and State of New York.

8. Defendant City of New York is a municipal corporation organized under the laws of the State of New York. It operates the NYPD, a department or agency of defendant City of New York responsible for the appointment, training, supervision, promotion and discipline of police officers and supervisory police officers, including the individually named defendants herein.

9. Defendant Police Officer Stephen Macomber, Shield No. 20905 (“Macomber”), at all times relevant herein, was an officer, employee and agent of the NYPD. Defendant Macomber is sued in his individual and official capacities.

10. At all times relevant defendants John and Jane Doe 1 through 10 were police officers, detectives or supervisors employed by the NYPD. Plaintiff does not know the real names and shield numbers of defendants John and Jane Doe 1 through 10.

11. At all times relevant herein, defendants John and Jane Doe 1 through 10 were acting as agents, servants and employees of the City of New York and the NYPD. Defendants John and Jane Doe 1 through 10 are sued in their individual and official capacities.

12. At all times relevant herein, all individual defendants were acting under color of state law.

### **STATEMENT OF FACTS**

13. At approximately 3:30 a.m. on April 25, 2014, Mr. Sanchez was lawfully inside of Area Lounge, a club located in the vicinity of 89-29 130<sup>th</sup> Street in Queens, New York.

14. Mr. Sanchez, formerly on active duty in the Army, was at Area Lounge with two friends from the Army and their wives.

15. While at the club, Mr. Sanchez, and others, observed from a distance, individuals unknown to him fighting one another.

16. As Mr. Sanchez and others observed police officers begin to intervene in the altercation, defendant officers suddenly tackled him from behind for no lawful reason.

17. Defendants slammed Mr. Sanchez to the ground causing his face to hit the concrete.

18. Without probable cause or even arguable probable cause, a defendant

officer pinned plaintiff's head and face to the ground with his knee and then tightly handcuffed Mr. Sanchez.

19. Shocked and in pain, Mr. Lenin repeatedly asked what was going on, but defendants refused to respond.

20. Mr. Sanchez was taken to a police precinct.

21. At the precinct, Mr. Sanchez requested medical treatment as he was in pain and his face was bleeding, but defendants neither responded nor provided him with any treatment.

22. Defendants falsely informed employees of the Queens County District Attorney's Office that they had observed plaintiff engage in disorderly conduct and resisting arrest.

23. At no point did the officers observe Mr. Sanchez commit any violation or crime.

24. Mr. Sanchez was eventually taken to Queens Central Booking.

25. Plaintiff was arraigned in Queens County Criminal Court, where the criminal charges were adjourned in contemplation of dismissal.

26. After approximately twenty hours in custody, Mr. Sanchez was released.

27. Following his release, Mr. Sanchez, who continued to suffer from pain, including in his ear, neck, head and face went to Interfaith Hospital for medical treatment.

28. Within ninety days after the claim alleged in this Complaint arose, a written notice of claim was served upon defendants at the Comptroller's Office.

29. At least thirty days have elapsed since the service of the notice of claim, and adjustment or payment of the claim has been neglected or refused.

30. This action has been commenced within one year and ninety days after the happening of the events upon which the claims are based.

31. Mr. Sanchez suffered damage and continues to suffer damage to date as a result of defendants' actions. Plaintiff was deprived of his liberty, suffered emotional distress, mental anguish, fear, pain, bodily injury, anxiety, embarrassment, humiliation, and damage to his reputation.

**FIRST CLAIM**  
**Unlawful Stop and Search**

32. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

33. Defendants violated the Fourth and Fourteenth Amendments because they stopped and searched plaintiff without reasonable suspicion.

34. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages herein before alleged.

**SECOND CLAIM**

**False Arrest**

35. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

36. Defendants violated the Fourth and Fourteenth Amendments because they arrested plaintiff without probable cause.

37. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

**THIRD CLAIM**

**State Law False Imprisonment and False Arrest**

38. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

39. By their conduct, as described herein, the individual defendants are liable to plaintiff for falsely imprisoning and falsely arresting plaintiff.

40. Plaintiff was conscious of his confinement.

41. Plaintiff did not consent to his confinement.

42. Plaintiff's confinement was not otherwise privileged.

43. Defendant City of New York, as an employer of the individual defendant officers, is responsible for their wrongdoing under the doctrine of *respondeat superior*.

44. As a direct and proximate result of the misconduct and abuse of authority stated above, plaintiff sustained the damages alleged herein.

**FOURTH CLAIM**  
**Unreasonable Force**

45. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

46. The defendants violated the Fourth and Fourteenth Amendments because they used unreasonable force on plaintiff.

47. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

**FIFTH CLAIM**  
**State Law Assault and Battery**

48. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

49. By their conduct, as described herein, the defendants are liable to plaintiff for having assaulted and battered him.

50. Defendant City of New York, as an employer of the individual defendant officers, is responsible for their wrongdoing under the doctrine of *respondet superior*.

51. As a direct and proximate result of the misconduct and abuse of authority stated above, plaintiff sustained the damages alleged herein.

**SIXTH CLAIM**  
**Denial Of Constitutional Right To Fair Trial**

52. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

53. The individual defendants created false evidence against plaintiff.

54. The individual defendants forwarded false evidence to prosecutors in the Queens County District Attorney's office.

55. In creating false evidence against plaintiff, and in forwarding false information to prosecutors, the individual defendants violated plaintiff's right to a fair trial under the Due Process Clause of the Fifth, Sixth and Fourteenth Amendments of the United States Constitution.

56. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

**SEVENTH CLAIM**  
**Negligent Hiring, Training and Retention**

57. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.



58. Defendant City, through the NYPD, owed a duty of care to plaintiff to prevent the conduct alleged, because under the same or similar circumstances a reasonable, prudent, and careful person should have anticipated that injury to plaintiff or to those in a like situation would probably result from the foregoing conduct.

59. Upon information and belief, all of the individual defendants were unfit and incompetent for their positions.

60. Upon information and belief, defendant City knew or should have known through the exercise of reasonable diligence that the individual defendants were potentially dangerous.

61. Upon information and belief, defendant City's negligence in screening, hiring, training, disciplining, and retaining these defendants proximately caused each of plaintiff's injuries.

62. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

**EIGHTH CLAIM**  
**Intentional Infliction of Emotional Distress**

63. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

64. By reason of the foregoing, and by assaulting, battering, and using gratuitous, excessive, and brutal force, failing to prevent other defendants from doing so, or causing an unlawful seizure and extended detention without due process, the defendants, acting in their capacities as NYPD officers, and within the scope of their employment, each committed conduct so extreme and outrageous as to constitute the intentional infliction of emotional distress upon plaintiff.

65. The intentional infliction of emotional distress by these defendants was unnecessary and unwarranted in the performance of their duties as NYPD officers.

66. Defendants, their officers, agents, servants, and employees were responsible for the intentional infliction of emotional distress upon plaintiff. Defendant City, as employer of each of the defendants, is responsible for their wrongdoings under the doctrine of *respondeat superior*.

67. As a direct and proximate result of the misconduct and abuse of authority detailed above, plaintiff sustained the damages hereinbefore alleged.

**NINTH CLAIM**  
**Negligent Infliction of Emotional Distress**

68. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

69. By reason of the foregoing, and by assaulting, battering, and using gratuitous, excessive, and brutal force, failing to prevent other defendants from doing so, or causing an unlawful seizure and extended detention without due process, the defendants, acting in their capacities as NYPD officers, and within the scope of their employment, each were negligent in committing conduct that inflicted emotional distress upon plaintiff.

70. The negligent infliction of emotional distress by these defendants was unnecessary and unwarranted in the performance of their duties as NYPD officers.

71. Defendants, their officers, agents, servants, and employees were responsible for the negligent infliction of emotional distress upon plaintiff. Defendant City, as employer of each of the defendants, is responsible for their wrongdoings under the doctrine of *respondeat superior*.

72. As a direct and proximate result of the misconduct and abuse of authority detailed above, plaintiff sustained the damages hereinbefore alleged.

**TENTH CLAIM**  
**Deliberate Indifference to Medical Needs**

73. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

74. The individual defendants were aware of a risk to plaintiff's need for medical care and failed to act in deliberate indifference to plaintiff's needs.

75. Accordingly, defendants violated the Fourteenth Amendment because they acted with deliberate indifference to plaintiff's medical needs.

76. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

**ELEVENTH CLAIM**  
**Failure To Intervene**

77. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

78. Those defendants that were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

79. Accordingly, the defendants who failed to intervene violated the Fourth, Fifth, Sixth and Fourteenth Amendments.

80. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

**PRAYER FOR RELIEF**

**WHEREFORE**, plaintiff respectfully requests judgment against defendants as follows:

- (a) Compensatory damages against all defendants, jointly and severally;
- (b) Punitive damages against the individual defendants, jointly and severally;
- (c) Reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and
- (d) Such other and further relief as this Court deems just and proper.

Dated: December 9, 2014  
New York, New York

HARVIS WRIGHT & FETT LLP



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